# MTC EXHIBIT "F"

1	IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS		
2	BEAUMONT DIVISION		
3	CALEB BUTLER and JEREMY ) PENNINGTON, )		
4	Plaintiffs, )		
5	VS. ) Case No. 1:22-CV-00367		
6	BNSF RAILWAY COMPANY, ) Defendant. )		
7	j		
8			
9	**************************************		
10	DENTIN CHAPMAN		
11	JUNE 28, 2023		
12			
13	(REPORTED REMOTELY) ************************************		
14	ORAL AND VIDEOTAPED DEPOSITION OF DENTIN CHAPMAN,		
15	produced as a witness at the instance of the Plaintiff,		
16	and duly sworn, was taken in the above-styled and		
17	numbered cause on June 28, 2023, from 10:02 a.m. to		
18	10:20 a.m., before Donna Wright, CSR in and for the		
19	State of Texas, reported by machine shorthand and		
20	remotely via Zoom, pursuant to the Federal Rules of		
21	Civil Procedure, the 22nd Emergency Order Regarding the		
22	COVID-19 State of Disaster, and any stipulations or		
23	agreements stated on the record or attached hereto.		
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                                                                                                                        12
     fust described, occurred on August 19th, right?
 1
                                                               1 those locomotives from service?
 2
         A. That's -- that's correct.
                                                                       A. Yeah, so he would -- he would obviously make
         Q. All right. And so on the 19th, you had
                                                               3
                                                                   sure they were physically in the roundhouse. They
     instructed Mr. Nesteby to remove those locomotives from
                                                                   would want to make sure that it is obviously on their
     service?
                                                                   turnover, mechanical has it. Those locomotives could
              Yes, following -- yes, when he had called me I
                                                                   not be used until inspected. That would need to be a
     told him to -- to do that until mechanical had cleared
                                                                   formal briefing as well that he would have with -- with
     the locomotives.
                                                                   his -- during his turnover and that the team was aware
                                                               8
         Q. When was your next involvement with -- with
                                                                   those locomotives don't go back into service until
     this hard coupling event and Caleb Butler's injury?
10
                                                                   mechanical clears them.
                                                              10
11
         A. So I asked Mr. Nesteby to please write an
                                                              11
                                                                        Q. Would Mr. Nesteby need to complete a document
12
     e-mail to me so obviously we had a documentation of the
                                                              12
                                                                   to remove those locomotives from service or would be
13
     conversation he and Mr. Butler had, and to please
                                                                   just need to have a conversation?
14
     include the statement because I was obviously not
                                                              14
                                                                       A. Just need to have a conversation. I had
     physically there with Mr. Nesteby, so to please send
                                                              15
                                                                   included -- Mr. McGuire, I had included -- I don't
16
     that to me so I could see the statement.
                                                                   recall the date of the inclusion, but I included the
17
                   The next involvement would have just been
                                                              17
                                                                   mechanical supervisor that oversaw Silsbee Yard and
     through conversations and e-mail chains in the
18
                                                                   Lafayette Yard in that communication to make sure he
19
     following days as mechanical would have responded and
                                                                   was also aware and Mr. Nesteby was aware that those
                                                              19
     let me know what they had found, that they were
20
                                                                   locomotives were not to come back in service.
21
     releasing the locomotive.
                                                              21
                                                                            When you say you included, what do you mean by
22
                   And then obviously continuing to look
                                                              22
                                                                   that?
23
     into a follow-up conversation with Mr. Nesteby, had he
                                                              23
                                                                           I believe I included him in the e-mail -- I
24
     heard from Mr. Butler. I think it was on a Thursday,
                                                                  believe I included him in the e-mail response,
25
     and so we were going into a weekend and I know
                                                                   Mr. Trailer, in the e-mail response to make sure he was
                                                                                                                        1.3
                                                         11
     Mr. Butler was on his off days. So, you know, how was
                                                                   aware of it.
     Mr. Butler feeling, et cetera. And it would have just
                                                               2
                                                                                 MR. McGUIRE: Susan, do you know where
     been lead-up -- follow-up conversations from that point
 3
                                                               3
                                                                   those e-mails are at?
     on as everything continued to progress.
                                                                                 MS. TRAVIS: I know where some of them
              So you had a discussion with Mr. Nesteby and
                                                                   are. And, counsel, they include -- and I was going to
                                                               5
     asked him to e-mail you a copy of the statement that
                                                               6
                                                                   have a conversation with you about this and I'm very
     Mr. Nesteby had completed that we looked at, Exhibit
                                                               7
                                                                   sorry.
     No. 2?
                                                               8
                                                                                 They include the claims department in
         A. I think I had told him -- yeah, I told him via
                                                               9
                                                                   connection with investigating Mr. Butler's injury. And
                                                                   some of them -- here's the conversation I was going to
10
     phone to send me an e-mail and to include the statement
                                                              10
11
     as part of that e-mail, yes.
                                                                   have with you. Some of them, while they include the
12
         Q. Did -- did Mr. Nesteby do that?
                                                                   claims department, are factual in nature and I'm happy
                                                              12
13
              Yes, he did.
                                                                   to produce those because I feel like if it's factual,
14
         Q. All right. Did you do anything else on -- and
                                                                   that could -- that's discoverable.
                                                              14
     did he do that on the 19th?
15
                                                              15
                                                                                 But I don't want that to be considered by
         A. I don't recall the exact date of his e-mail,
16
                                                              16
                                                                   you a waiver of all communications with the claims
     so I believe he did, yes, on that -- on that date an
17
                                                              17
                                                                   department because there is an investigative privilege.
18
     initial kind of instant response.
                                                              18
                                                                   And so I didn't know where you would stand on that.
19
         Q. Did you do anything else on August 19th other
                                                                                 MR. McGUIRE: Well, obviously I'm going
                                                              19
20
     than having this discussion with Mr. Nesteby?
                                                                   to need those documents to be able to question him
              No. Giving him the instruction to take the
21
                                                                   about them because I literally just got the e-mails two
                                                              21
22
    locomotive out of service, that would have been --
                                                                   days ago where -- from September 28th from a
23
     would have been it at that point.
                                                                   decisionmaker in the case discussing the -- his
24
         Q. Where could we look to see -- what would
                                                                   investigation of what happened. And I just got those.
    Mr. Nesteby need to do at that point in time to remove
                                                              25
                                                                                 And to learn that there's more e-mails, I
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mean, I need these to be able to question all of the
                                                                                 MR. McGUIRE: Yeah. I mean, all that I'm
                                                               1
    witnesses. So do you have -- I mean, and obviously you
                                                               2
                                                                   getting it at is if -- I just want all of the
    guys have redacted portions that you thought that I
                                                                   documents. For example, I did not have the document to
     didn't need to see.
                                                                   be able to question Janssen Thompson about some of
                  So I quess what I want to be able to do
                                                                   these things that we know now that he knew and the same
     is go through those documents so that I can read those
                                                                   with Chad Nesteby.
7
    to be able to -- to question him about those,
                                                                                 And it just -- you know, from my
                  MS. TRAVIS: Sure, I understand. I mean,
                                                               В
                                                                   perspective, like the document that was just produced
    we have been, you know, taking a lot of depositions and
                                                               9
                                                                   for Mr. -- for Mr. Chapman here, that document -- this
    it's -- it's been a lot.
                                                                   is a decisionmaker. Of all of the documents we would
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                                                              10
11
                  I'll handle this however you want. If
                                                              11
                                                                   think that we would get in this case, it would be
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    you want to stop taking his deposition right now today
                                                              12
                                                                   e-mails from him discussing the hard coupling.
13
     and reschedule it, we can do that. If you want me to
                                                              13
                                                                                 There's no -- you know, no claim of any
14
    find the Will Trailer one right now, we can take a
                                                                   type of privilege with regard to that document and I
                                                              14
15
    ten-minute break and I'll redact the stuff.
                                                                   just got it. And that -- I guess that's the issue that
                  I did not -- I don't want to produce
                                                                   I'm having is it just seems like it's just drip, drip,
16
                                                              16
17
     something that I think is arguably protected by the
                                                                   dripping. And I want to make sure I have everything so
    investigative privilege. But there -- that's a --
18
                                                                   that I don't have to come back and take these things
19
     that's a broad -- that's a gray area.
                                                              19
                                                                   again. I mean, I'm happy --
20
                  There's some of them that are -- it's
                                                              20
                                                                                 MS. TRAVIS: I agree, Clint. You tell me
21
    just factual and I have no objection to producing that.
                                                              21
                                                                   what you want to do. I mean, I agree. And, like I
22
    But the claims people are copied on it and I don't want
                                                                   said, I'm sorry. I'm doing the best I can. I'm trying
23
     you to consider that a waiver of all other e-mails.
                                                                   to, you know, hamster on the wheel and keep up the best
                                                              23
24
                  And, you know, other e-mails that I feel
                                                              24
                                                                   I can.
    like are protected by the privilege, I'm doing a
25
                                                              25
                                                                                 MR. McGUIRE: Okav.
                                                         15
    privilege log on them. We can take it up with the
                                                                                 MS. TRAVIS: If you don't want to take
2
    court on those.
                                                                   his deposition today, that's completely fine. I'm not
3
                  But on the ones that I'm not fighting
                                                               3
                                                                   fighting you on that at all. You tell me what you want
     about, except for the fact that they are copied to
                                                                   to do.
    claims people, I'm happy to produce those if you do not
                                                                                 MR. McGUIRE: Yeah, I think what I would
5
                                                               5
    consider that to be a waiver of the privilege.
                                                                   like to do is get the -- all of -- so that we don't
                  MR. McGUIRE: Well, I guess the first
                                                                   have to -- I don't want to have to bring Mr. Chapman
    thing is -- and I'm having difficulty understanding why
                                                                   and question him again and then get into a question of
    these weren't produced a year or so ago.
                                                                   I already asked this and then come back and ask this.
g
                                                               9
10
                  MS. TRAVIS: I have been working through
                                                                                 I think it would be fairest for everyone
                                                              10
11
    and getting -- you know, the -- his -- I have been
                                                                  if we get our hands around everything that is there so
    trying, Clint. I mean, there's a lot -- we have
                                                                   that I can -- I can question him about those things.
12
                                                              12
13
    produced a lot of documents in this case. I have been
                                                              13
                                                                                 So I think what -- that I would like to
    trying to keep up with a whole lot of production and
                                                                   pause this deposition and then just reschedule it once
14
                                                              14
     get you Chad Nesteby before Chad Nesteby's deposition
                                                                   we get those worked out.
15
    and get you Ty Christian before Ty Christian's
16
                                                              16
                                                                                 MS. TRAVIS: I have no problem with that.
17
    deposition. And I have been trying to -- I have been
                                                              17
                                                                   It may, though, Clint, require -- I mean, I'll do a
18
    prioritizing.
                                                              18
                                                                   privilege log and it may require going to the court on
19
                  So I'm sorry. It's been a busy caseload.
                                                              19
20
    You know, three of the cases are with you and so I'm
                                                              20
                                                                                 And I hear what you're saying about he's
21
    doing the best I can. Like I said, if you want to not
                                                                   the decisionmaker in the FRSA case, but you've added
                                                              21
22
    take his deposition today because you want me to
                                                                   your FELA case to this. And so there's -- there's a
23
    produce these e-mails before -- I'm not trying to trick
                                                              23
                                                                   FELA personal injury investigation of that component.
    you. If you want more time, then we will get you more
                                                                   So it's -- it's blurrier than it would be if it was
    time. I've been doing the best I can.
                                                                   just an FRSA case.
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	18	_	20
1	Feel free you're free to disagree with	1	CHANGES AND SIGNATURE
2	me, but that's where I'm coming from.	2	WITNESS NAME: DENTIN CHAPMAN
3	MR. McGUIRE: Well, it won't accomplish	3	DATE OF DEPOSITION: JUNE 28, 2023
4	anything. And that's not we can do that in	4	PAGE LINE CHANGE REASON
5	pleadings. And so I appreciate	5	
6	MS. TRAVIS: Yeah,	6	
7	MR. McGUIRE: I think the best thing for	7	
8	all of us at this point is to hit pause, reschedule	8	
9	this. You were kind enough to reschedule it to deal	9	
10	with an with an issue that I had. We will get this	10	
11	back on the books once we get those issues worked out.	11	
12	I know that we have a couple of other	12	
13	issues that we can discuss that you and I have been	13	
14	discussing, and maybe we can get all of those wrapped	14	
15	up at once and then we can come back and get this done.	15	
1	· · · · · · · · · · · · · · · · · · ·	16	
16	MS. TRAVIS: Yeah. And Mr. Chapman seems	17	-
17	to be very decently available, unlike another witness		<del></del>
18	I'm trying to pin down, and have been trying to pin	18	
19	down for months.	19	<del></del>
20	So I feel like we will be able to get	20	
21	Mr. Chapman back on the calendar, you know, relatively	21	
22	easily once we work out our document issue.	22	
23	MR. McGUIRE: Okay. Well, Mr. Chapman,	23	
24	I'm sorry. We will thank you for reserving your	24	
25	time today. We will get this taken care of and we will	25	
	19		21
1	do this on another mutually agreeable time.	1	I, DENTIN CHAPMAN, have read the foregoing
2	THE WITNESS: Sounds good. Thank you,	2	deposition and hereby affix my signature that same is
3	Mr. McGuire.	3	true and correct, except as noted above.
4	MS. TRAVIS: Okay. I'll talk to you in a	4	DOMEN CUADMAN
5	bit, Mr. Chapman.	5	DENTIN CHAPMAN
6	THE WITNESS: Yes.	6	THE STATE OF )
7	THE VIDEOGRAPHER: Sorry, Ms. Travis, I	7	COUNTY OF)
8	just need to ask, do you want a copy of the transcript?		
9		8	
1	MS. TRAVIS: From the court reporter,	9	Before me,, on this day personally
10	MS. TRAVIS: From the court reporter, yeah. Not the video. No offense.	1	
	• •	9	Before me,, on this day personally appeared DENTIN CHAPMAN, known to me (or proved to
10	yeah. Not the video. No offense.	9	Before me,, on this day personally appeared DENTIN CHAPMAN, known to me (or proved to me under oath or through) (description
10 11	yeah. Not the video. No offense.  THE VIDEOGRAPHER: Oh, no problem. Thank	9 10 11	Before me,, on this day personally appeared DENTIN CHAPMAN, known to me (or proved to me under oath or through) (description of identity card or other document) to be the
10 11 12	yeah. Not the video. No offense.  THE VIDEOGRAPHER: Oh, no problem. Thank you.	9 10 11 12	Before me,, on this day personally appeared DENTIN CHAPMAN, known to me (or proved to me under oath or through) (description of identity card or other document) to be the person whose name is subscribed to the foregoing
10 11 12 13	yeah. Not the video. No offense.  THE VIDEOGRAPHER: Oh, no problem. Thank you.  We are going off the record. The time	9 10 11 12 13	Before me,, on this day personally appeared DENTIN CHAPMAN, known to me (or proved to me under oath or through) (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed
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